

94. (New) An isolated polynucleotide which is at least 80% identical to the polynucleotide of Claim 3 and encodes a protein that has an activity of a β -subunit of RNA polymerase B. --

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Cont

SUPPORT FOR THE AMENDMENT

Support for the amendment to the claims and the newly added claims is found in the original claims and at page 5, lines 6-19, and page 3, lines 13-21, of the specification. No new matter is believed to be introduced by the amendment or the addition of the new claims.

REMARKS

Claims 5, 37, and 39 are cancelled. Claims 88-94 are added. Claims 1-4, 6-36, 38, and 40-94 are pending. Favorable reconsideration is respectfully requested.

At the outset, Applicants thank Examiner Hudson for the helpful comments during the courteous discussion of the present application held on January 28, 2003, and for indicating that the remarks below, combined with the above amendment, would further favorable prosecution of the present application.

The rejections of Claims 5, 8, and 10 under 35 U.S.C. §102(b) over Imboden et al. and/or Honore et al. are believed to be obviated by the amendment above combined with the remarks below.

Claim 5 is cancelled. Accordingly, withdrawal of this ground of rejection is respectfully requested.

Claim 8 is amended to specify that the claimed polynucleotide encodes a protein having activity of the β -subunit of RNA polymerase B and hybridizes to a polynucleotide

containing SEQ ID NO: 1 under stringent conditions where the stringent conditions relate to a washing in 0.5X SSC at a temperature of from 50 to 68°C.

At best, Imboden et al. discloses a polynucleotide that has a best local similarity score of 71%. As discussed during the above-mentioned Interview with the Examiner, such a polynucleotide would not hybridize to a polynucleotide containing SEQ ID NO: 1 under stringent conditions where the stringent conditions relate to a washing in 0.5X SSC at a temperature of from 50 to 68°C. Therefore, Imboden et al. fails to disclose or suggest the claimed polynucleotide. Accordingly, withdrawal of this ground of rejection is respectfully requested.

Claim 10 is amended to relate to a polynucleotide containing a at least one polynucleotide selected from the group consisting of at least 15 consecutive nucleotides of nucleotides 1 to 701 of SEQ ID NO: 1, at least 35 consecutive nucleotides of nucleotides 702 to 4199 of SEQ ID NO: 1, and at least 25 consecutive nucleotides of nucleotides 4200 to 5099 of SEQ ID NO: 1.

The Office indicates that Imboden et al. and/or Honore et al. disclose, at best, a polynucleotide containing at least 15 consecutive nucleotides of SEQ ID NO: 1. However, after closer consideration, Applicants have determined that Imboden et al. and/or Honore et al. disclose, at best, a polynucleotide comprising at least 15 consecutive nucleotides within the coding region (nucleotides 702-4199) and downstream thereof (nucleotides 4200-5099). In fact, it appears as if Imboden et al. and/or Honore et al. fails to disclose a polynucleotide containing at least 15 consecutive nucleotides within the nucleotides upstream from the coding region (nucleotides 1-701). Therefore, Imboden et al. and/or Honore et al. fails to disclose or suggest a polynucleotide containing at least 15 consecutive nucleotides of nucleotides 1-701 of SEQ ID NO: 1. Further, Imboden et al. and/or Honore et al. fails to

disclose or suggest a polynucleotide containing at least 35 consecutive nucleotides of nucleotides 702-4199 of SEQ ID NO: 1. Finally, Imboden et al. and/or Honore et al. fails to disclose or suggest a polynucleotide containing at least 25 consecutive nucleotides of nucleotides 4200-5099 of SEQ ID NO: 1. Therefore, Imboden et al. and/or Honore et al. fails to disclose or suggest the claimed polynucleotide. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of Claims 2 and 9 under 35 U.S.C. §112, second paragraph, is believed to be obviated by the attached reference: Biochemistry (1988) by *Lubert Stryer* which is provided on the enclosed Information Disclosure Statement for the Examiner's convenience. This reference clearly demonstrates at page 704, lines 7-9, and Table 29-1 that it is known that the "activity of the β -subunit of RNA polymerase B" is to bind a DNA template, bind ribonucleoside triphosphate substrates, and form phosphodiester bonds. Clearly, at the time of the invention, one skilled in the related technical art would understand the clear definition of "a protein having activity of the β -subunit of RNA polymerase B." Therefore, this phrase, which is now contained in many of the pending claims, is clearly defined and would thereby be clearly understood by one reading the present application. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of Claim 40 under 35 U.S.C. §112, second paragraph, is believed to be obviated by the above amendment. More specifically, Claim 40 is amended to specify that the expression of the protein which is encoded by the polynucleotide is enhanced in accordance with the Examiner's suggestion during the above-mentioned Interview. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of Claims 5-10 under 35 U.S.C. §112, first paragraph, is believed to be obviated by the above amendment. More specifically, these claims have either been cancelled


or amended to specify that the claimed polynucleotide encodes a polypeptide having activity of the β -subunit of RNA polymerase B in accordance with the Examiner's suggestion during the above-mentioned Interview. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The objection to and the rejection of Claims 37 and 39 under 35 U.S.C. §112, first paragraph, is believed to be obviated by the cancellation of these claims. Accordingly, withdrawal of these grounds of objection and rejection is respectfully requested.

Applicants respectfully submit that the present application is now in condition for allowance. Early notice to this effect is respectfully requested. Should anything further be required to place this application in condition for allowance, the Examiner is requested to contact the undersigned by telephone.

Respectfully submitted,

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IN THE CLAIMS

--2. (Amended) The isolated polynucleotide of Claim 1, wherein said protein has [the] an activity of the β -subunit of RNA polymerase B.

6. (Amended) An isolated polynucleotide which is [at least 80%] from 86 to 90% identical to the polynucleotide of Claim 3 and encodes a protein that has an activity of a β -subunit of RNA polymerase B.

7. (Amended) An isolated polynucleotide which is at least [90%] 95% identical to the polynucleotide of Claim 3 and encodes a protein that has an activity of a β -subunit of RNA polymerase B.

8. (Amended) An isolated polynucleotide which hybridizes under stringent conditions to the polynucleotide of Claim 3 and encodes a protein that has an activity of a β -subunit of RNA polymerase B; wherein said stringent conditions comprise washing in [5X] 0.5X SSC at a temperature from 50 to 68°C.

10. (Amended) An isolated polynucleotide [which comprises at least 15] comprising at least one polynucleotide selected from the group consisting of at least 15 consecutive nucleotides of nucleotides 1 to 701 of SEQ ID NO: 1, at least 35 consecutive nucleotides of nucleotides 702 to 4199 of SEQ ID NO: 1, and at least 25 consecutive nucleotides of nucleotides 4200 to 5099 of SEQ ID NO: 1 [the polynucleotide of Claim 3].

40. (Amended) A *Coryneform* bacterium, comprising [which comprises an] said isolated polynucleotide of Claim 1 wherein said protein encoded by said polynucleotide is enhanced [rpoB gene].

41. (Amended) The *Coryneform bacterium* of Claim 40, wherein said [rpoB gene] isolated polynucleotide comprises the polynucleotide sequence of SEQ ID NO:1.

42. (Amended) The *Coryneform* bacterium of Claim 40, wherein said [enhanced rpoB gene] isolated polynucleotide comprises the polynucleotide sequence of SEQ ID NO:3.

43. (Amended) The *Coryneform* bacterium of Claim 40, wherein said [enhanced rpoB gene] isolated polynucleotide comprises the polynucleotide sequence of SEQ ID NO:5.-

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--Claims 5, 37, and 39 are cancelled.--

--Claims 88-94 are added.--